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UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	DECISION ON
LASCAUD et al	:	
Application No.: 10/030,541	:	PETITION UNDER
PCT No.: PCT/FR00/01726	:	37 CFR 1.181
Int. Filing Date: 21 June 2000	:	FOR REQUEST
Priority Date: 12 July 1999	:	FOR WITHDRAWAL
Attorney's Docket No.: BET 00/0576	:	
For: METHOD AND DEVICE FOR CHARGING	:	ABANDONMENT
SEVERAL ELECTROCHEMICAL CELLS	:	

This Decision is in response to applicant's "PETITION FOR NEW OFFICE ACTION AND WITHDRAWAL OF HOLDING OF ABANDONMENT PURSUANT TO 37 CFR 1.181" filed on 05 November 2002, which is being treated as a petition under 37 C.F.R. § 1.181 requesting vacating the holding of Abandonment of the present application because the Notice of Missing Requirements mailed on 27 February 2002 was not received by the undersigned office.

BACKGROUND

On 21 June 2000, applicants filed international application PCT/FR00/01726, which claimed an earliest priority date of 12 July 1999. A DEMAND was filed for the above application on 18 January 2001. Accordingly, the thirty (30) month time period for paying the basic national fee in the United States of America expired at midnight on 12 January 2002.

On 11 January 2002, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No executed oath or declaration of the inventors accompanied the Transmittal Letter.

On 27 February 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 1.497(a) and (b) and surcharge fee under 37 CFR 1.492(e) within two (2) month from the date of mailing this notice or 32 from the priority date, whichever is later in order to avoid abandonment of the national stage application.

On 05 November 2002, petitioner submitted the instant petition alleging that the undersigned office did not receive the Notice of Missing Requirements and, therefore, could not respond to it. Accompanying the petition is: 1) a copy of a docket record and (2) a copy of the undersigned attorney's file jacket.

DISCUSSION

MPEP section 711.03(c) establishes the requirement to show nonreceipt of an Office action. It states that "the showing required by the notice to establish the failure to receive an Office action must consist of a statement from the practitioner stating that the Office action was not received by practitioner and attesting to the fact that a search of the filed jacket and docket records indicate that the Office action was not received. **A copy of the docket record where the non-received Office action would have been enter had it been received and docketed must be attached to and referenced in practitioner's statement.**"

A review of the petition reveals that petitioner has not compiled with the requirements set forth in section 711.03(c), which requires a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed- that is, a copy of the docket report showing all replies docketed for a date of two months from the mail date of the nonreceived Office action. The provided docket report is confusing because there is no clear order as to how the data was inputted- are these the dates the that communications were received at the firm or the due dates for the communications received? For example, page 1 on the docket report indicates report from 2/28/02 to 2/28/02 but on the list the "mail date" varies from 2/26/2002 to 1/04/2002 to 2/21/2002 and so on.

Petitioner's current submission by itself is insufficient to establish failure to receive the Office communication of 27 February 2002 without further corroborating evidence , e.g., the docket list for a reply of two months or a tickler sheet for dates around 27 April 2002. In other words, to establish a showing nonreceipt of the Notification of Missing Requirements would require, at a minimum, a copy of docket showing all replies docketed for a date of two months from the mail date of the nonreceived Office action.

Accordingly, petitioner has not met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action, and the withdrawal of the holding of abandonment of the above captioned-application at this time is not appropriate.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The above-captioned application remains **ABANDONED**.

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the PCT Legal Office.

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